

IC 5-1-14

Chapter 14. Miscellaneous Provisions

IC 5-1-14-1

Bonds, notes, or warrants not subject to maximum interest rate limitations

Sec. 1. (a) Any bonds, notes, or warrants, whether payable from property taxes, revenues, or any other source, are not subject to the maximum interest rate limitations contained in any law enacted before December 31, 1982, if they are issued by or in the name of any entity named in IC 5-1-1-1.

(b) After July 1, 1979, any bond, coupon, certificate of indebtedness, or installment payment payable by a city, town, or property holder for public improvements under the Barrett Law is not subject to any maximum interest rate limitation. This subsection does not apply to interest rates or penalties on delinquencies provided under the Barrett Law.

(c) This section does not limit an interest rate review conducted by the department of local government finance under IC 6-1.1-20-7. *As added by Acts 1980, P.L.8, SEC.25. Amended by P.L.44-1983, SEC.6; P.L.90-2002, SEC.12.*

IC 5-1-14-1.2

Issuer defined

Sec. 1.2. As used in this chapter, "issuer" means any issuer of obligations that is referred to in IC 5-1-1-1(b).

As added by P.L.37-1988, SEC.2.

IC 5-1-14-1.5

Obligations defined

Sec. 1.5. As used in this chapter, "obligations" has the meaning set forth in IC 5-1-3-1(b).

As added by P.L.37-1988, SEC.3.

IC 5-1-14-2

Provisions for payment of bonds, notes, or warrants before maturity date

Sec. 2. Any bonds, notes, or warrants, whether payable from property taxes, revenues, or any other source, issued by an entity enumerated in section 1(a) of this chapter may provide that the bonds, notes, or warrants may be payable before maturity from available funds and with such premiums as are set forth in the bonds, notes, or warrants. In addition, the bonds, notes, or warrants may provide that they may be registered as to principal or interest, or both, at the option of the holder, and upon such terms and conditions as are set forth in the bonds, notes, or warrants.

As added by Acts 1980, P.L.8, SEC.25.

IC 5-1-14-3

Maintenance of federal tax exclusion from gross income for

interest on bonds

Sec. 3. Notwithstanding any other law, any issuer may take any reasonable and necessary action to establish or maintain the exclusion from gross income for interest on obligations of the issuer under federal law. These actions may include, without limitation:

- (1) filing information reports with the federal government;
- (2) rebating money derived from bond proceeds or money treated as bond proceeds under federal law, or earnings thereon, to the federal government;
- (3) restricting the yield on money or earnings described in subdivision (2) to the yield on bonds of the issuer;
- (4) investing money or earnings described in subdivision (2) in obligations of issuers that bear interest that is excludable from gross income under federal law;
- (5) issuing obligations in an amount sufficient to serve the public purpose of the financing without considering earnings thereon;
- (6) qualifying obligations under any volume cap or electing any carryforward of unused volume cap;
- (7) designating, through its legislative body or any board responsible for issuing obligations as long as the obligations are executed by the executive of the issuer, obligations to qualify for any exemption from the loss of any deduction for interest incurred by any financial institution to carry tax exempt obligations or for any exemption from federal arbitrage rebate requirements; and
- (8) complying with limitations imposed by federal law on the issuance of tax exempt bonds under IC 36-7-14, IC 36-7-14.5, IC 36-7-15.1, or IC 36-7-15.3, including, without limitation:
 - (A) designation of redevelopment project areas by a legislative body (as defined in IC 36-1-2-9) having jurisdiction over the area;
 - (B) considering any factors required by federal law in determining whether an area meets the criteria for designation as a redevelopment project area; and
 - (C) limiting the use of property in a redevelopment project area.

As added by P.L.27-1986, SEC.1. Amended by P.L.37-1988, SEC.4; P.L.2-1989, SEC.4; P.L.185-2005, SEC.1.

IC 5-1-14-4**Pledge made by issuer binding; lien**

Sec. 4. (a) Notwithstanding any other law, a pledge of revenues or other money, or property made by any issuer is binding from the time the pledge is made. Revenues or other money, or property pledged and thereafter received by the issuer are immediately subject to the lien of the pledge without any further act, and the lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against the issuer, regardless of whether the parties have notice of any lien. No resolution, ordinance, indenture,

or any other instrument by which a pledge is created needs to be filed or recorded except in the records of the issuer.

(b) Notwithstanding any other law, an issuer may pledge any revenues or other money or pledge or mortgage property to pay debt service on or secure any obligations or any lease rental or contractual payments, if:

- (1) the issuer has the necessary statutory authority to issue obligations, pay lease rentals, or make contractual payments for any project or purpose for which the pledge or mortgage is made;
- (2) the revenues, money, or property is legally available, under federal, state, and local laws, to pay or secure debt service, lease rentals, or contractual payments; and
- (3) the pledge or mortgage does not purport to create an obligation in violation of any statutory or constitutional limitation to which the issuer is subject.

As added by P.L.27-1986, SEC.2. Amended by P.L.37-1988, SEC.5.

IC 5-1-14-5

Bond anticipation notes; issuance

Sec. 5. Notwithstanding any other law, any city, town, county, school corporation, or regional district organized under IC 13-26 or IC 13-3-2 (before its repeal) that has complied with all statutory requirements for the issuance of its bonds, other than IC 5-1-11 or any public sale statute, may, in lieu of issuing bonds at that time and without the need for complying with any other law applicable to the issuance of bonds, notes, or other evidences of indebtedness, issue its notes in anticipation of the issuance of bonds to a financial institution. However, if the amount of the notes is at least one million dollars (\$1,000,000), the notes may be issued to any purchaser. The bond anticipation notes may be issued on terms set forth in a resolution or ordinance authorizing their issuance and in any amount equal to or less than the amount of bonds authorized to be issued. The city, town, county, school corporation, or district may renew or extend the bond anticipation notes from time to time on terms agreed to with the financial institution or other purchaser. The amount of the accrued interest on the date of renewal or extension of the bond anticipation notes may be paid or added to the principal amount of the bond anticipation notes being renewed or extended as long as the aggregate principal amount of bond anticipation notes outstanding at any time does not exceed the maximum principal amount permitted by this section. The bond anticipation notes, including any renewals or extensions, must mature in the amounts and at the times (not exceeding five (5) years from the date of the original issuance of the bond anticipation notes) agreed to by the city, town, county, school corporation, or district and the financial institution or other purchaser. The bond anticipation notes must be finally paid, and interest on the bond anticipation notes may be finally paid, with the proceeds of the bonds issued by the city, town, county, school corporation, or district. In connection with the issuance of bonds,

part or all of the proceeds of which will be used to retire the bond anticipation notes, it is not necessary for the city, town, county, school corporation, or district to repeat the procedures for the issuance of bonds, as the procedures followed before the issuance of the bond anticipation notes are for all purposes sufficient to authorize the issuance of the bonds.

As added by P.L.44-1987, SEC.4. Amended by P.L.2-1989, SEC.5; P.L.35-1990, SEC.2; P.L.1-1996, SEC.34.

IC 5-1-14-6

Use of proceeds for costs of issuance of obligation, funding debt services reserves, or payment of interest; reimbursements

Sec. 6. (a) Notwithstanding any other law, an issuer may use proceeds of its obligations to pay the reasonable cost of issuance of the obligations or to fund reasonably required debt service reserves to secure the payment of the obligations.

(b) Notwithstanding any other law, an issuer may use proceeds of the issuer's obligations to pay interest on the obligations for:

- (1) a period not to exceed two (2) years from the date of issuance of the obligations; or
- (2) any longer period that is permitted by any other statute.

(c) Notwithstanding any other law, an issuer may reimburse itself for preliminary costs incurred in financing any project or purpose from proceeds of the obligations when issued.

As added by P.L.37-1988, SEC.6. Amended by P.L.35-1990, SEC.3; P.L.24-1995, SEC.22.

IC 5-1-14-7

Application of section; stadium; lease rental tax

Sec. 7. (a) This section applies to:

- (1) each county having a population of more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000); and
- (2) each second class city located in such a county.

(b) As used in this section, "stadium" means a structure used for athletic, recreational, cultural, and community events.

(c) Notwithstanding any other law, a stadium constitutes a:

- (1) government building under IC 36-9-13;
- (2) structure under IC 36-1-10;
- (3) park purpose under IC 36-10-1;
- (4) park improvement under IC 36-10-4; and
- (5) redevelopment project or purpose under IC 36-7-14.

(d) Notwithstanding any other law, a legislative body of a city may levy a tax in the park district established under IC 36-10-4 to pay lease rentals to a lessor of a stadium under IC 36-1-10 or IC 36-9-13.

As added by P.L.38-1988, SEC.1. Amended by P.L.12-1992, SEC.14; P.L.170-2002, SEC.12.

IC 5-1-14-8

Money withheld by auditor as not creating debt for constitutional purposes

Sec. 8. If a statute provides that amounts due under a loan to a political subdivision (as defined in IC 36-1-2) or a local public improvement bond bank shall or may be withheld by the auditor of state from other money payable to the political subdivision or bond bank upon failure to make repayment of the loan, the requirement or permission to withhold amounts due under the loan does not create a debt of the political subdivision for purposes of the Constitution of the State of Indiana.

As added by P.L.2-1989, SEC.6.

IC 5-1-14-9

Rights of owners of obligations not to be impaired

Sec. 9. (a) The general assembly covenants that it will not adopt, amend, or repeal a statute in a way that impairs the rights and remedies of the owners of obligations, until the obligations, interest on the obligations, interest on an unpaid installment of interest, and all costs and expenses in connection with an action or proceedings by or on behalf of the owners are fully paid and discharged.

(b) An agency (as defined in IC 4-22-2-3) may not adopt, amend, or repeal a rule under IC 4-22-2 in a way that impairs the rights and remedies of the owners of obligations, until the obligations, interest on the obligations, interest on an unpaid installment of interest, and all costs and expenses in connection with an action or proceedings by or on behalf of the owners are fully paid and discharged.

As added by P.L.2-1989, SEC.7.

IC 5-1-14-10

Maximum term or repayment period of obligations; continuation of payments

Sec. 10. (a) If an issuer has issued obligations under a statute that establishes a maximum term or repayment period for the obligations, notwithstanding that statute, the issuer may continue to make payments of principal, interest, or both, on the obligations after the expiration of the term or period if principal or interest owed to owners of the obligations remains unpaid.

(b) This section does not authorize the use of revenues or funds to make payments of principal and interest other than those revenues or funds that were pledged for the payments before the expiration of the term or period.

As added by P.L.2-1989, SEC.8.

IC 5-1-14-11

Payment of fees and charges authorized

Sec. 11. If an issuer is authorized by statute to issue obligations and to make payments of principal and interest to owners of those obligations from any source, the issuer is authorized to pay fees and charges associated with the issuance of the obligations from that source, including the payment of fees and charges associated with

obtaining and enforcing credit enhancement for the obligations.
As added by P.L.2-1989, SEC.9.

IC 5-1-14-12

Refunding obligations

Sec. 12. Notwithstanding any other law, if an agency, an authority, a board, a department, or a commission of a unit (as defined in IC 36-1-2) is authorized to issue obligations in the name of the unit for any purpose for which any other agency, authority, board, department, or commission of the unit may issue its obligations, the agency, the authority, the board, the department, or the commission may issue obligations to refund obligations issued in the name of the unit by the other agency, authority, board, department, or commission of the unit.

As added by P.L.2-1989, SEC.10.

IC 5-1-14-12.5

Purchase and issuance of obligations on terms reasonable to issuer

Sec. 12.5. Notwithstanding any other law, an issuer may purchase any obligations on terms the issuer finds reasonable and may issue its obligations to effectuate that purpose on terms that the issuer finds reasonable.

As added by P.L.224-2003, SEC.265.

IC 5-1-14-13

Contesting validity of obligations

Sec. 13. The following provisions apply when an issuer negotiates a sale of obligations and a statute does not specify a time within which to contest the validity of the obligations or the sale of the obligations:

- (1) No action to contest the validity of the obligations may be brought after the fifteenth day following the adoption of the resolution authorizing the sale of the obligations.
- (2) No action to contest the validity of the sale of the obligations may be brought after the fifth day following the sale.

As added by P.L.2-1989, SEC.11.

IC 5-1-14-14

Loans, expenditures, and issuance of bonds for economic development

Sec. 14. (a) Notwithstanding any other law, a municipality may sell the municipality's interest in any notes payable to the municipality at a negotiated sale.

(b) A county or municipality may establish a revolving fund from grants, the revenue received by the county or municipality under IC 6-3.5-7, the proceeds of the sale of notes, or the proceeds of bonds issued under this section and IC 36-9-32. The county or municipality may loan the money in the revolving fund to any borrower if the county or municipal fiscal body finds that the loan will be used by

the borrower for one (1) or more of the following economic development purposes:

- (1) Promoting significant opportunities for the gainful employment of the county's or municipality's residents.
- (2) Attracting a major new business enterprise to the county or municipality.
- (3) Retaining or expanding a significant business enterprise in the county or municipality.

(c) Activities that may be undertaken by the borrower in carrying out an economic development purpose include expenditures for any of the following:

- (1) Acquisition of land.
- (2) Acquisition of property interests.
- (3) Site improvements.
- (4) Infrastructure improvements.
- (5) Buildings.
- (6) Structures.
- (7) Rehabilitation, renovation, or enlargement of buildings or structures.
- (8) Machinery.
- (9) Equipment.
- (10) Furnishings.

(d) Local governmental entities may borrow under subsection (b) if the local governmental entity's jurisdiction includes the geographic area within the boundaries of the county or municipality that established the revolving fund. Notwithstanding any other law, the following provisions apply to the borrowing:

- (1) The county or municipality that established the revolving fund and the local governmental entity borrower may each authorize the loan from the revolving fund and the issuance of notes evidencing the loan by resolution. In each case, the resolution shall be adopted by the body with control over fiscal matters.
- (2) A resolution adopted under subdivision (1) must approve:
 - (A) the term of the loan;
 - (B) the interest rate;
 - (C) the form of the note or notes;
 - (D) the medium of payment;
 - (E) the place and manner of payment;
 - (F) the manner of execution of the note or notes;
 - (G) the terms of redemption;
 - (H) the funds or sources of funds from which the note or notes are payable, which may be any funds and sources of funds available to the borrower; and
 - (I) any other provisions not inconsistent with this section.
- (3) The notes and the authorization, issuance, sale, and delivery of the notes are not subject to any general statute concerning obligations issued by the local governmental entity borrower. This section contains full and complete authority for the making of the loan, the authorization, issuance, sale, and delivery of the

notes, and the repayment of the loan by the borrower, and no law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by any officer, department, agency, or instrument of the state or of any political subdivision is required to make the loan, issue the notes, or repay the loan except as prescribed in this section.

(4) The notes issued by a local governmental entity borrower are exempt from taxation for all purposes and are exempt from any security registration requirements provided for in Indiana statutes.

(5) Notes issued by a local governmental entity borrower under this section are obligations for all purposes of this chapter.

(e) A municipality may issue bonds under IC 36-9-32-7(b) through IC 36-9-32-7(j) for the economic development purposes listed in subsection (c) and may repay the indebtedness solely from revenues derived from the repayment of any notes, including notes evidencing loans made under subsection (b).

(f) To the extent a revolving fund under subsection (b) is funded from:

- (1) revenues received by the county under IC 6-3.5-7; or
- (2) repayments of principal and interest on loans from the revolving fund that were funded with revenues described in subdivision (1);

money in the revolving fund may at any time be transferred in whole or in part to the unit's economic development income tax fund, as determined by ordinance of the unit's fiscal body.

(g) The general assembly finds that counties and municipalities in Indiana have a need to foster economic development and industrial and commercial growth. The general assembly finds that it is necessary and proper to provide an alternative method for municipalities to foster the following:

- (1) Economic development.
- (2) Industrial and commercial growth.
- (3) Employment opportunities.
- (4) Diversification of industry and commerce.

It is declared that the fostering of economic development under this section for the benefit of the general public, including industrial and commercial enterprises, is a public purpose.

As added by P.L.35-1990, SEC.4. Amended by P.L.27-1995, SEC.5.